

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:24-CV-638-D

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
400 S. PETTIGREW, LLC et al.,)
)
 Defendants.)

ORDER

On November 12, 2024, the United States of America (“United States” or “plaintiff”) filed a complaint against 400 S. Pettigrew, LLC, DMang Brokerage, LLC, and David Mang (collectively “Mang” or defendants) seeking to quiet title to, and declaration of, the United States’ property interest in a sewer line that crosses 400 S. Pettigrew Street, Raleigh, North Carolina (“Pettigrew Property”) [D.E. 1]. The same day, the United States moved for a temporary restraining order (“TRO”) and preliminary injunction [D.E. 2] and filed a memorandum in support [D.E. 3]. On November 13, 2024, the court granted the United States’ request for a TRO, issued the TRO, and set a hearing for the preliminary injunction request on November 26, 2024 [D.E. 7]. On November 22, 2024, Mang responded in opposition [D.E. 15] and filed numerous exhibits [D.E. 14]. On November 25, 2024, the United States replied [D.E. 16]. On November 26, 2024, the court received additional evidence, heard argument from both parties, granted the United States’ motion for a preliminary injunction, and announced that an initial written order would follow. As explained below, the court grants the United States’ motion for a preliminary injunction. The court will issue a more detailed order in due course.

Mang, a Raleigh developer, purchased the Pettigrew Property from North Carolina State

University (“NCSU”) in 2023. See [D.E. 3-13]. The Pettigrew Property is a plot of land adjacent to the Raleigh National Cemetery (“Cemetery”), a civil-war era cemetery owned and operated by the National Cemetery Administration, an office within the Department of Veterans Affairs (“VA”). After purchasing the Pettigrew Property, Mang discovered a sewer line that connected the Cemetery buildings to the Raleigh sewer network. Mang communicated his intent to remove the sewer line to the United States. The United States objected. After negotiations failed, the United States sought a TRO to stop Mang from removing the sewer line, which this court granted on November 13, 2024. See [D.E. 7].

The court has considered the parties’ filings, exhibits, and arguments under the governing standard. See, e.g., Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). The court finds the United States has made a clear showing that:

The United States is likely to succeed on the merits of its claims. Specifically, the United States is likely to succeed in asserting an easement by estoppel, or in the alternative, an easement by prescription, in the sewer line that crosses the Pettigrew Property.

The United States is likely to suffer irreparable harm in the absence of a preliminary injunction. Absent preliminary injunctive relief, Mang has made clear that he will remove the only sewer line connecting the Cemetery to the sewer system. See [D.E. 3-22] 5. Among other considerations, this conduct would irreparably harm any property interest the United States has in the sewer line crossing the Pettigrew Property.

The balance of the equities tips in the United States favor. Among other considerations, the United States faces the prospect of temporarily closing the Cemetery to the public, failing to provide adequate working conditions for federal employees, and impairing the public’s ability to honor the fallen veterans in the Cemetery. These considerations outweigh Mang’s interest in

building four houses on the Pettigrew Property.

The public interest favors granting the United States' requested preliminary injunction. Among other considerations, the public has a deep interest in promoting public access to the Cemetery by maintaining an operational restroom. Honoring our nation's fallen veterans is in the heartland of the public interest.

In sum, the court GRANTS the plaintiff's motion for a preliminary injunction [D.E. 2] and ENJOINS the defendants, as well as any agents, employees, assigns, or other persons or entities acting on defendants' orders or in defendants' interests, from disconnecting, stopping, encroaching on or otherwise interfering with or trespassing against the sewer line currently running from the Raleigh National Cemetery, 501 Rock Quarry Road, Raleigh, North Carolina, through 400 S. Pettigrew Street, Raleigh, North Carolina.

SO ORDERED. This 27 day of November, 2024.


JAMES C. DEVER III
United States District Judge